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17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION
19
20 CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO,
21 individually and on behalf of all similarly
situated,

22 Plaintiffs,

23 v.
24

25 GOOGLE LLC,
26 Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO SEAL PORTIONS OF
OPPOSITION TO PLAINTIFFS'
MOTION FOR LEAVE TO AMEND
COMPLAINT**

Judge: Hon. Yvonne Gonzalez Rogers

1 **I. INTRODUCTION**

2 Google respectfully seeks to seal Exhibits 1, 5, and 9 of the Broome Declaration in Support of
 3 Google's Opposition to Plaintiffs' Motion for Leave to Amend Complaint, which contain Google's
 4 confidential and proprietary information regarding highly sensitive features of Google's internal
 5 systems and operations that Google does not share publicly, including: the various types of Google's
 6 internal projects, features, and logs and proprietary functionalities, as well as internal metrics and
 7 investigations. This information is highly confidential and should be protected.

8 This Administrative Motion pertains to the following information contained in the and
 9 Exhibits to the Broome Declaration attached thereto:

Document	Portions to be Filed Under Seal	Basis for Sealing
Ex. 1 (Google's responses and Objections to Plaintiffs' First Set of Interrogatories)	Portions highlighted in yellow at: 8:5-8, 8:10	The information requested to be sealed contains Google's highly confidential and proprietary information regarding highly sensitive features of Google's internal systems and operations, including internal projects and features and their proprietary functionalities, as well as internal investigation of features, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Such confidential and proprietary information reveals Google's internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2-3. Public disclosure of such confidential and proprietary information could affect Google's competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google's internal practices relating to competing products.
Ex. 5 (Google's Responses and	Portions highlighted in yellow at:	The information requested to be sealed contains Google's highly confidential and

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Objections to Plaintiffs' Ninth Set of Interrogatories)	4:12, 5:25-27, 6:1-8:16, 8:19-9:5	proprietary information regarding highly sensitive features of Google's internal projects, features, and their proprietary functionalities, as well as internal metrics and investigations, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Such confidential and proprietary information reveals Google's internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2-3. Public disclosure of such confidential and proprietary information could affect Google's competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may seek to use the information to compromise Google's internal practices relating to competing products.
16 17 18 19 20 21 22 23 24 25 26 27 28	Ex. 9 (Feb. 18, 2022 Dep. Tr. (Rough) of Rory McClelland)	Redacted in its Entirety	The information requested to be sealed contains Google's highly confidential and proprietary information regarding highly sensitive features of Google's internal projects, features, and logs, and their proprietary functionalities, that Google maintains as confidential in the ordinary course of its business and is not generally known to the public or Google's competitors. Such confidential and proprietary information reveals Google's internal strategies, system designs, and business practices for operating and maintaining many of its important services, and falls within the protected scope of the Protective Order entered in this action. <i>See</i> Dkt. 81 at 2-3. Public disclosure of such confidential and proprietary information could affect Google's competitive standing as competitors may alter their systems and practices relating to competing products. It may also place Google at an increased risk of cybersecurity threats, as third parties may

1		seek to use the information to compromise Google's internal practices relating to competing products.
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4 **II. LEGAL STANDARD**

5 The common law right of public access to judicial records in a civil case is not a constitutional
6 right and it is “not absolute.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978)
7 (noting that the “right to inspect and copy judicial records is not absolute” and that “courts have
8 refused to permit their files to serve as reservoirs of . . . sources of business information that might
9 harm a litigant’s competitive standing”). Sealing is appropriate when the information at issue
10 constitutes “competitively sensitive information,” such as “confidential research, development, or
11 commercial information.” *France Telecom S.A. v. Marvell Semiconductor Inc.*, 2014 WL 4965995, at
12 *4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir.
13 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of materials for many types of
14 information, including, but not limited to, trade secrets or other confidential research, development, or
15 commercial information”).

16 **III. THE ABOVE IDENTIFIED MATERIALS EASILY MEET THE “GOOD CAUSE”
17 STANDARD AND SHOULD ALL BE SEALED**

18 Courts have repeatedly found it appropriate to seal documents that contain “business
19 information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 589-99. Good
20 cause to seal is shown when a party seeks to seal materials that “contain[] confidential information
21 about the operation of [the party’s] products and that public disclosure could harm [the party] by
22 disclosing confidential technical information.” *Digital Reg. of Texas, LLC v. Adobe Sys., Inc.*, 2014
23 WL 6986068, at *1 (N.D. Cal. Dec. 10, 2014). Materials that could harm a litigant’s competitive
24 standing may be sealed even under the “compelling reasons” standard. *See e.g., Icon-IP Pty Ltd. v.*
25 *Specialized Bicycle Components, Inc.*, 2015 WL 984121, at *2 (N.D. Cal. Mar. 4, 2015) (information
26 “is appropriately sealable under the ‘compelling reasons’ standard where that information could be
27 used to the company’s competitive disadvantage”) (citation omitted).

1 Exhibits 1, 5, and 9 of the Broome Declaration attached thereto all comprise confidential and
 2 proprietary information as the materials involve highly sensitive features of Google's internal systems
 3 and operations that Google does not share publicly. Specifically, this information provides details
 4 related to Google's internal projects, features, and logs and proprietary functionalities, as well as
 5 internal metrics and investigations. Such information reveals Google's internal strategies, system
 6 designs, and business practices for operating and maintaining many of its important services while
 7 complying with legal and privacy obligations.

8 Public disclosure of the above-listed information would harm Google's competitive standing it
 9 has earned through years of innovation and careful deliberation, by revealing sensitive aspects of
 10 Google's proprietary systems, strategies, designs, and practices to Google's competitors. That alone is
 11 a proper basis to seal such information. *See, e.g., Free Range Content, Inc. v. Google Inc.*, No. 14-cv-
 12 02329-BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google's motion to seal certain
 13 sensitive business information related to Google's processes and policies to ensure the integrity and
 14 security of a different advertising system); *Huawei Techs., Co. v. Samsung Elecs. Co.*, No. 3:16-cv-
 15 02787-WHO, Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales data because
 16 "disclosure would harm their competitive standing by giving competitors insight they do not have");
 17 *Trotsky v. Travelers Indem. Co.*, 2013 WL 12116153, at *8 (W.D. Wash. May 8, 2013) (granting
 18 motion to seal as to "internal research results that disclose statistical coding that is not publically
 19 available").

20 Moreover, if publicly disclosed, malicious actors may use such information to seek to
 21 compromise Google's internal systems and data structures. Google would be placed at an increased
 22 risk of cyber security threats, and data related to its users could similarly be at risk. *See, e.g., In re*
 23 *Google Inc. Gmail Litig.*, 2013 WL 5366963, at *3 (N.D. Cal. Sept. 25, 2013) (sealing "material
 24 concern[ing] how users' interactions with the Gmail system affects how messages are transmitted"
 25 because if made public, it "could lead to a breach in the security of the Gmail system"). The security
 26 threat is an additional reason for this Court to seal the identified information.

27 The information Google seeks to redact, including internal projects and their proprietary
 28 functions, is the minimal amount of information needed to protect its internal systems and operations

1 from being exposed to not only its competitors but also to nefarious actors who may improperly seek
2 access to and disrupt these systems and operations. The “good cause” rather than the “compelling
3 reasons” standard should apply but under either standard, Google’s sealing request is warranted.

4 **IV. CONCLUSION**

5 For the foregoing reasons, Google respectfully requests that the Court seal Exhibits 1, 5, and 9
6 of the Broome Declaration attached thereto.

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3 SULLIVAN, LLP

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